

NEBRASKA DEPARTMENT
OF INSURANCE

JUN 07 2000

FILED

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

IN THE MATTER OF THE DENIAL OF
APPLICATION FOR LICENSE BY
THOMAS E. HART

) FINDINGS OF FACT,
) CONCLUSIONS OF LAW, AND
) RECOMMENDED ORDER
)
) CAUSE NO. A-1405
)

This matter came on for hearing on May 17, 2000 before Eric Dunning, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The matter arises out of a denial of an application for a resident insurance agent license. The Nebraska Department of Insurance ("Department") was represented by its attorney, Linda Sanchez-Masi and Thomas E. Hart ("Applicant") was present. The proceedings were tape recorded by Stacey Bellefeuille, a licensed Notary Public. Applicant made a statement, and introduced letters on his own behalf. Evidence was also introduced by the Department, and the matter was taken under advisement. The record was kept open until May 19, 2000 for submission of such other exhibits as may have been submitted by Applicant and Department. The hearing officer hereby makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. The Department is the agency of the State of Nebraska charged with licensing insurance agents and brokers.
2. On March 15, 2000, Applicant applied for a resident insurance agent license, with qualification to sell Pre-Paid Legal Services contracts (Exhibit 4). Applicant's address as listed on the application is 127 Forest Heights Drive, Number 606, York, Nebraska 68467.

3. On March 21, 2000, Beverly Creager, Licensing Administrator for the Nebraska Department of Insurance, notified Applicant that his application for an insurance agent's license was denied based upon Neb.Rev.Stat. §44-4026(4) (Exhibit 4). Neb.Rev.Stat. §44-4026(4) provides that the Director may deny the application for an agent's, broker's, or agency license if, the Applicant has been convicted of any felony or Class I, II or III misdemeanor, evidencing such Applicant is not worthy of the public trust.

4. Applicant plead guilty on April 30th, 1989 to sexual assault of a child, his daughter, a Class IV felony.

5. On June 25, 1989, Applicant was sentenced to forty months of probation for this felony, the first sixty days of which were served in the county jail. The Applicant was released from probation and his civil rights were restored on October 28th, 1993. Applicant has no other criminal convictions.

6. Applicant has been employed since his release from prison, for Tim O'Neill and H.P. Smith, both Omaha car dealerships, Champion Homes, and North Country Thermal Gard.

7. Applicant submitted letters on his own behalf from Kevin Stephens at Champion Homes (Exhibit 12), the President of North Country Thermal Gard (Exhibit 9), and the Sales Manager at North Country Thermal Gard (Exhibit 10) as evidence of the reputation he has with his employers.

8. Applicant submitted on his own behalf a letter from District Judge Raymond Case, retired, stating that Judge Case is of the opinion that Applicant's behavior which lead to his conviction will "never be repeated".

9. Applicant submitted on his own behalf a letter from M. James Divis, pastor of Saint Joseph's Church in York, Nebraska, stating that the pastor had known applicant since 1995 and known him to be "of great personal integrity" (Exhibit 11).

10. Applicant sought and received counseling for the behavior which lead to his conviction as part of the order of probation.

CONCLUSIONS OF LAW

1. The Department has broad jurisdiction, control and discretion over the licensing of insurance agents and brokers to sell insurance in the State of Nebraska pursuant to Neb.Rev.Stat. §44-101.01 and §44-4001 et seq.

2. The Department has personal jurisdiction over Applicant.

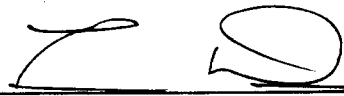
3. The conviction does constitute sufficient basis for denying a license pursuant to Neb.Rev.Stat. §44-4026(4).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended to the Director of Insurance that the Director deny Applicant's request for licensing as an insurance agent with Pre-Paid Legal qualification.

Dated this 7th day of June, 2000.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



HEARING OFFICER

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of

this Department in the matter of the Application For An Insurance Agent's License by Thomas E. Hart, Cause No. A-1405.

Dated this 7th day of June 2000.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Applicant by mailing a copy to Applicant at 127 Forest Heights Drive, Number 606, York, Nebraska 68467 on this 8th day of June, 2000.

